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8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:

Case No. 1H 2007 516

11 PAUL ANTHONY MEZA
12 3634 E. Donner Avenue
Fresno CA 93726

STATEMENT OF ISSUES

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15 Applicant/Respondent.

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17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Respiratory Care Board of California,
21 Department of Consumer Affairs.

22 2. On or about August 8, 2007, the Respiratory Care Board (Board) of
23 California, Department of Consumer Affairs received an application for a respiratory care
24 practitioner license from Paul Anthony Meza (Respondent). On or about July 7, 2007, Paul
25 Anthony Meza certified under penalty of perjury to the truthfulness of all statements, answers,
26 and representations in the application. The Board denied the application on December 20, 2007.

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JURISDICTION

3. This Statement of Issues is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

6. Section 3750 of the Code states:

"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

"(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

"(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

7. Section 3732 of the Code states:

"(a) The board shall investigate an applicant for a license, before a license is issued, in order to determine whether or not the applicant has the qualifications required by this chapter.

"(b) The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

8. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.”

COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

10. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

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1 11. Section 3753.1 of the Code states:

2 "(a) An administrative disciplinary decision imposing terms of probation
3 may include, among other things, a requirement that the licensee-probationer pay the
4 monetary costs associated with monitoring the probation. "

5 12. California Code of Regulations, title 16, section 1399.370, states:

6 "“For the purposes of denial, suspension, or revocation of a license, a crime
7 or act shall be considered to be substantially related to the qualifications, functions
8 or duties of a respiratory care practitioner, if it evidences present or potential
9 unfitness of a licensee to perform the functions authorized by his or her license or
10 in a manner inconsistent with the public health, safety, or welfare. Such crimes or
11 acts shall include but not be limited to those involving the following:

12 "“(a) Violating or attempting to violate, directly or indirectly, or assisting or
13 abetting the violation of or conspiring to violate any provision or term of the Act.

14 "“(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny.

15 "“(c) Conviction of a crime involving driving under the influence or reckless
16 driving while under the influence.

17 FIRST CAUSE FOR DENIAL OF APPLICATION

18 (Convictions)

19 13. Respondent's application is subject to denial under sections 3750(d),
20 3750(g), 3752 and CCR 1399.370(a) and (c) in that he has three convictions substantially
21 related to the practice of respiratory care. The circumstances are as follows:

22 2006 DUI Conviction

23 14. On or about August 29, 2006, in *People of the State of California*
24 *vs. Paul Anthony Meza*, case no. T-6500147-4 filed in Superior Court, Fresno County,
25 respondent was convicted on his plea of no contest to a misdemeanor violation of Vehicle
26 Code section 23152(b), driving with a blood alcohol content of .08% or more.
27 Respondent’s blood alcohol content was .12%/.11% at the time of the arrest.

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1 15. Respondent was sentenced to three years conditional probation,
2 sixty days county jail which was suspended except for ten days. He was ordered to pay
3 fines and attend a DUI Level 1 treatment program.

4 1998 Vehicle Code sec 23109(c) conviction

5 16. On or about November 22, 1991, a criminal complaint titled *People*
6 *of the State of California vs. Paul Anthony Meza*, case no. BA050071 was filed in
7 Municipal Court for Los Angeles County. Count 1 charged respondent with a violation of
8 Health & Safety Code section 11350, possession of a controlled substance, a felony.
9 Count 2 charged respondent with a felony violation of Vehicle Code section 23152(a)
10 [driving under the influence of alcohol or drugs.] Count 3 charged respondent with a
11 misdemeanor violation of Vehicle Code section 14601.2(a) [driving with a suspended
12 license.]

13 17. On or about March 12, 1992, a \$10,000 bench warrant was issued.
14 On March 28, 1997, the court docket noted that the bench warrant that was to have been
15 issued on March 12, 1992 was not issued. It was verified that the case was still in open
16 bench warrant status, and the warrant was ordered issued.

17 18. On or about April 17, 1998, respondent entered a plea of not guilty
18 to Counts 2 [driving under the influence of alcohol or drugs] and 3 [driving with a
19 suspended license.] People's motion to dismiss Count 1 was granted per Penal Code
20 section 1385 [dismissal in furtherance of justice.]

21 19. On or about June 12, 1998, respondent entered a plea of nolo
22 contendere to count 4, a misdemeanor violation of Vehicle Code section 23109(c)¹

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24 1. **23109.** (a) A person shall not engage in a motor **vehicle** speed contest on a highway.
25 As used in this section, a motor **vehicle** speed contest includes a motor **vehicle** race against
26 another **vehicle**, a clock, or other timing device. For purposes of this section, an event in
27 which the time to cover a prescribed route of more than 20 miles is measured, but where
28 the **vehicle** does not exceed the speed limits, is not a speed contest.

(b) A person shall not aid or abet in any motor **vehicle** speed contest on any highway.

(c) A person shall not engage in a motor **vehicle** exhibition of speed on a highway,
and a person shall not aid or abet in a motor **vehicle** exhibition of speed on any highway.

1 [exhibition of speed.] The Court accepted the plea, and respondent was convicted. He
2 was placed on twelve months summary probation; ordered to serve one day in county jail
3 with credit for one day; perform fifty hours community service by August 28, 1998; pay
4 \$100.00 restitution by June 14, 1999 and pay \$76.00 attorneys fees by June 14, 1999.

5 20. Respondent did not submit proof of completing community service
6 hours by August 28, 1998 as ordered. He completed community service on January 25,
7 1999.

8 21. Respondent did not submit proof of payment of restitution and
9 attorneys fees by June 14, 1999 as ordered. On August 16, 1999, he paid \$100.00
10 restitution and \$51.00 in attorneys fees.

11 1987 Penal Code sec. 496(1) conviction

12 22. On or about October 22, 1987, a criminal complaint titled *People of*
13 *the State of California vs. Paul Anthony Meza*, case no. 87M06332, was filed in Municipal
14 Court, Glendale Judicial District, Los Angeles County. Count 1 charged respondent with a
15 violation of Penal Code section 496(1), receive/buy known stolen property, a
16 misdemeanor.

17 23. On or about October 30, 1987, respondent was convicted on his plea
18 of guilty and placed on summary probation for two years.

19 24. Therefore, respondent's application is subject to denial based on his
20 substantially-related convictions in violation of code sections 3750(d) and (g), 3752 and
21 CCR 1399.370(a) through (c).

22 SECOND CAUSE FOR DENIAL OF APPLICATION

23 (Dishonest Act)

24 25. Paragraphs 14 through 23 are incorporated herein.

25 26. Respondent's application is subject to denial under code section
26 3750(j) [dishonest act] in that he failed to disclose his 1987 and 1998 convictions in his
27 application for licensure.

28 27. On or about July 7, 2007, respondent submitted an application for

1 licensure, and signed it under penalty of perjury, declaring that the information contained
2 in the application was true and correct. Question 18 of the application asked:

3 “Have you ever been convicted² in any state court, federal court or foreign country

4 of (a) a citation (including Vehicle Code citations³)

5 (b) a misdemeanor (including ALL Vehicle Code violations)

6 (c) a felony (including ALL Vehicle Code violations)

7 28. Respondent checked the answer “yes” for (a) and (b), and in his
8 Background Statement submitted with the application, he provided information about his
9 2006 conviction of Vehicle Code section 23152(b).

10 29. However, at the time he completed the application, respondent was
11 aware that he was convicted in 1987 for violating Penal Code section 496.1 and in 1998
12 for violating Vehicle Code section 23109(c), but he did not disclose the two convictions.

13 30. Therefore, respondent’s application is subject to denial based on his
14 dishonest act in failing to disclose two substantially-related convictions, in violation of
15 code section 3750(j).

16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters
18 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

19 1. Denying the application of Paul Anthony Meza for a respiratory
20 care practitioner license;

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23 2. An asterisk (*) follows the word ‘convicted’ and in italics, states “A conviction
24 following a plea of nolo contendere is deemed a conviction.”

25 3. Two asterisks (**) follow the word ‘citations’ and following the question, it states:
26 “**You are not required to report minor traffic violations (i.e. speeding, running traffic stop,
27 illegal parking, etc.) unless the violation was a misdemeanor or felony. You are, however,
28 required to include any violation that is in any way related to drugs or alcohol (i.e. reckless
driving, wet reckless, driving under the influence, etc.) Any other citation that was not a
violation of the Vehicle Code must be reported. If in doubt, report the information to avoid
perjuring your application.”

1 2. Directing Paul Anthony Meza to pay the Respiratory Care Board of
2 California the costs of the investigation and enforcement of this case, and if placed on
3 probation, the costs of probation monitoring;

4 3. Taking such other and further action as deemed necessary and
5 proper.

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7 DATED: February 27, 2008

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10 Original signed by Liane Zimmerman for:
11 STEPHANIE NUNEZ
12 Executive Officer
13 Respiratory Care Board of California
14 Department of Consumer Affairs
15 State of California
16 Complainant

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